IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2363 of 2007()

CC.40/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

.....

PETITIONER: ACCUSED

U.CHANDRAN, AGED 52 YEARS,
'STANDARD SPRAY PAINTING',
EZHILODE P.O., TALIPARAMBA,
KANNUR.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: COMPLAINANT

---

1. KURIKKALAN ABDUL AZEEZ HAJI,
AGED 75 YEARS, S/O KUNHIMOIDEEN,
PERUMBA, PAYYANNUR, KANNUR.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 2363 of 2007

- -

Dated this the 24th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution under Sections 406 and 427 I.P.C. It was a private complaint, which was filed as early as in 2003. Cognizance was taken and the petitioner had appeared before the learned Magistrate as early as on 1.4.2004. He was enlarged on bail. Subsequently he did not appear before the learned Magistrate. Coercive processes have been issued to secure the presence of the petitioner. The petitioner at this stage has come to this court on 23.7.2007 with this petition under Section 482 Cr.P.C. to quash the proceedings.

2. Bonafides is not a virtue that I can invent or discover in the hands of the petitioner. Why did the petitioner not initiate this proceedings immediately after he entered appearance? Why has he come before this Court in 2007 to quash the proceedings initiated as early as in 2004? No satisfactory answers are forthcoming. I am, in these circumstances, not at all satisfied that this is a fit case where the powers under Section 482 Cr.P.C. can or ought to be invoked in favour of the petitioner. The petitioner must appear before the

learned Magistrate and seek bail in the ordinary course. I have no reason to assume that the learned Magistrate would not consider the application on merits, in accordance with law and expeditiously. Every court must do the same.

3. This application is accordingly dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

tm